IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.8449 OF 2007

Ashapura Agro Oil Ltd. ..Petitioner.
Vs.
Union of India and ors. ..Respondents.

Shri. Prakash Shah with Jitu Motwani i/by M/s.PDS Legal for the Petitioner.

Mr.Y.R.Mishra with R.C.Master for the Respondent-Union of India.

CORAM : F.I. REBELLO & R.S. MOHITE, JJ.
DATED : 7TH DECEMBER,2007.

PC :

1. Rule.

2. Heard forthwith.

3. The principal issue in this petition is covered by the Judgment of this court in Custom Appeal No.65 of 2007 between **The Commissioner of Customs (Import) Vs. Amrit Vanaspati Co. Ltd. and ors decided on 25.10.2007.**

4. On behalf of the respondents the learned counsel has pointed out that the shell life of the product has already expired and as such, this would be a relevant fact in so far as this petition is concerned.

5. There is no dispute that the goods when imported their shell life had not expired. It is on account of continuous non release of the goods that the shell life of the goods has expired. This cannot be held against the petitioner if otherwise the goods can be reprocessed on the facts of the case. If the the goods at the time of import, their shell life had already expired, then the judgment of this court would not apply to such imported goods for the purpose of reprocessing.

6. Considering the above, the present petition can be disposed of by issuing the following directions.

. Writ petition is partly allowed to the extent that the confiscation of the goods is set aside provided the petitioners pay the redemption fine and penalty imposed by the adjudicating authority. Thereafter, the goods can be cleared for home consumption provided the reprocessed goods confirm to the prescribed standards. If the reprocessed goods do not confirm to the prescribed standards then the reprocessed goods shall stand confiscated.

. Rule made absolute accordingly. No order as to costs.

(R.S. MOHITE, J.) **(F.I. REBELLO, J.)**